IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 177 of 2005 (S/B)

Dr. Kusum Lata Sagar,
W/o Sri Dr. Kalyan Singh,
At present working as Medical Officer in
PHC Jaspur, District Udham Singh Nagar. …… Petitioner

Versus

1. State of Uttaranchal,
   through Chief Secretary,
   Medical and Health Department,
   Dehradun, Uttaranchal.
2. Director, Medical Health and Family Welfare,
   Uttaranchal, Dehradun.
3. Chief Medical Officer (C.M.O.),
   Udham Singh Nagar.
4. The Superintendent, Public Health Centre (PHC),
   Jaspur, District Udham Singh Nagar. ……. Respondents

Mr. Jitendra Chaudhary, Advocate for the petitioner.

Coram: Hon. Cyriac Joseph, C.J.
Hon. B.C. Kandpal, J.

JUDGMENT

CYRIAC JOSEPH, C.J. (Oral)

1. The petitioner is aggrieved by her transfer from Jaspur in Udham Singh Nagar to Shakti Farm, PHC in Udham Singh Nagar itself. The impugned transfer was ordered as per Annexure 1 order dated 25.07.2005. The petitioner has completed three years' service at Jaspur and in the normal circumstances, the petitioner cannot have a grievance about the impugned transfer, that too, to a place in the same district. However, the contention of the petitioner is that in view of the fact that she as well as her only child are physically handicapped, she deserved a sympathetic consideration. The petitioner has also stated that the petitioner's husband is working at Nagina which is a town near Jaspur. In the light of the above special circumstances, the petitioner contends that she may be allowed to continue at Jaspur itself or at any other place near Nagina.

2. So long as the impugned transfer is not violative of any statutory provisions or malafide, this Court cannot interfere with the transfer ordered by the first respondent. Therefore, we are not inclined to consider the merits or the demerits of the impugned transfer or the claim of the petitioner for a sympathetic consideration. It is for the first respondent to consider whether the petitioner can be accommodated either at Jaspur or at any other place near Nagina in view of the special circumstances stated by her. The petitioner has submitted Annexure 5 representation dated 05.08.2005 to the first respondent through the Chief Medical Officer, Udham Singh Nagar. Having regard to the facts and circumstances of the case, we are of the view that the first respondent should consider the representation of the petitioner in accordance with law and in the light of the special circumstances stated by her.

3. Hence, the writ petition is disposed of with a direction to the first respondent to consider and pass appropriate orders on Annexure 5 representation as expeditiously as possible and at any rate, within a period of three weeks from the date of receipt of a copy of this judgment. It will be open to the petitioner to request the first respondent to keep the impugned transfer in abeyance till the disposal of Annexure 5 representation and such a request also may be considered by the first respondent.

The petitioner may produce a copy of this judgment before the first respondent for information and compliance.

Certified copy be issued on payment of usual charges, if possible, today itself.

(B.C. Kandpal, J.) **(Cyriac Joseph, C.J.)**
10.08.2005 **10.08.2005**

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